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POSTAL SERVICE

PRESIDING OFFICER'S
RULING NO. MC2002-1/3

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Classification and Fees
for Confirm

Docket No. MC2002-1

PRESIDING OFFICER'S RULING
GRANTING WAIVER

(Issued June 13, 2002)

Coincident with its request for a recommended decision regarding Confirm[®] service, the Postal Service filed a statement of its compliance with the Commission's Rules of Practice and conditionally moved for a waiver.¹ Attachment F to the request identifies information designed to be responsive to Rules 54 and 64, 39 C.F.R. §§ 3001.54 and 3001.64. In an effort to comply with the Rules, the Postal Service relies on materials developed specifically to support the proposed Confirm[®] service as well as data from Docket No. R2001-1 which it proposes to incorporate by reference. Compliance Statement at 1; *see also* Attachment F *passim*.

The Postal Service asserts that incorporation is justified for several reasons. While it attempts to distinguish Confirm[®] by referring to testimony outlining its benefits, the Postal Service states that it nonetheless represents a relatively minor addition to special service offerings most recently considered in Docket No. R2001-1. Compliance Statement at 1-2. Second, the Postal Service contends that because the test year in the two dockets is the same (FY 2003) the information previously provided adequately satisfies the filing requirements. *Ibid*. Finally, Postal Service claims that given its service characteristics Confirm[®] will not significantly affect costs, revenues, and volumes for any class of mail or special service so as to warrant amending its testimony

¹ Statement of United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, April 24, 2002 (Compliance Statement).

filed in Docket No. R2001-1. *Id.* at 3. Alternatively, the Postal Service moves for a waiver of the filing requirements if the materials incorporated from Docket No. R2001-1 are deemed insufficient to satisfy the Commission's Rules. *Id.* at 4.

One party, American Postal Workers Union, AFL-CIO (APWU), submitted comments, opposing incorporation by reference of materials from Docket No. R2001-1, but supporting the Postal Service's conditional motion for waiver.² APWU opposes incorporation noting that Docket No. R2001-1 was resolved through a non-precedential settlement, and thus reliance on the underlying data may spawn litigation of issues not litigated in that docket. APWU Statement at 1. In addition, APWU contends that the data from R2001-1 are outdated. *Ibid.* APWU, however, supports the conditional motion for waiver, agreeing with the Postal Service that Confirm[®] will not significantly impact costs, volumes, and revenues of mail categories and special services. *Ibid.*

As a proposed new special service, Confirm[®] affects neither the carriage nor the physical characteristics of mail. Instead, it is designed to provide subscribers with information concerning when and where mail pieces undergo barcode scans in mail processing operations. See, e.g., USPS-T-1 at 2-5. As a result, Confirm[®] will not materially affect existing cost/revenue relationships among mail categories and special services. Moreover, the information proposed for incorporation is merely supplemental to those materials specifically supporting the proposal. See, e.g., USPS-T-1 through USPS-T-5 and Attachments A through F to the Request. In sum, as both the Postal Service and APWU conclude, the materials from Docket No. R2001-1 do not bear directly on the limited proposal in this proceeding. See Compliance Statement at 2, n.1 and APWU Statement at 1-2. Consequently, under the circumstances, granting the Postal Service's conditional motion for waiver is appropriate.

² Statement of American Postal Workers Union, AFL-CIO Concerning Statement of United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, May 23, 2002 (APWU Statement).

RULING

1. The Postal Service's request for waiver of the Commission's filing requirements, as set forth in the Statement of United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, filed April 24, 2002, is granted.


George Omas
Presiding Officer